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SENATE BILL 353

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO CERTIFIED PUBLIC ACCOUNTANTS; PERMITTING CERTIFIED  
PUBLIC ACCOUNTANTS LICENSED IN ANOTHER STATE TO PERFORM  
SERVICES IN NEW MEXICO; AMENDING AND REPEALING SECTIONS OF THE  
NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-28B-3 NMSA 1978 (being Laws 1999,  
Chapter 179, Section 3, as amended) is amended to read:

"61-28B-3. DEFINITIONS.--As used in the 1999 Public  
Accountancy Act:

A. "attest" means to provide the following  
financial statement services:

(1) an audit or other engagement performed in  
accordance with the statements on auditing standards;

(2) a review of a financial statement

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1 performed in accordance with the statement on standards for  
2 accounting and review services; [~~and~~]

3 (3) an examination of prospective financial  
4 information performed in accordance with the statements on  
5 standards for attestation engagements; and

6 (4) an engagement to be performed in  
7 accordance with the auditing standards of the public company  
8 accounting oversight board;

9 B. "board" means the New Mexico public accountancy  
10 board;

11 C. "certificate" means the legal recognition issued  
12 to identify a certified public accountant or a registered  
13 public accountant pursuant to the 1999 Public Accountancy Act  
14 or prior law;

15 D. "certified public accountant" means a person  
16 certified by this state or by another state to practice public  
17 accountancy and use the designation;

18 E. "contingent fee" means a fee established for the  
19 performance of a service pursuant to an arrangement in which no  
20 fee will be charged unless a specific finding or result is  
21 attained or upon which the amount of the fee is dependent upon  
22 a finding or result. "Contingent fee" does not mean a fee set  
23 by the court or a public authority on a tax matter;

24 F. "director" means the executive director of the  
25 board;

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1           G. "firm" means a sole proprietorship, professional  
2 corporation, partnership, limited liability company, limited  
3 liability partnership or other legal business entity that  
4 practices public accountancy;

5           H. "licensee" means a certified public accountant,  
6 certified public accountant firm, registered public accountant  
7 or registered public accountant firm;

8           I. "peer review" means a study, appraisal or review  
9 of one or more aspects of the professional work of a firm by a  
10 certified public accountant who is not affiliated with the firm  
11 being reviewed;

12           J. "permit" means the annual authority granted to  
13 practice as a certified public accountant firm or a registered  
14 public accountant firm;

15           ~~[K. "person" means a licensee;~~

16           ~~L.]~~ K. "practice" means performing or offering to  
17 perform public accountancy for a client or potential client by  
18 a person ~~[holding himself out]~~ who makes a representation to  
19 the public as being a permit holder or registered firm;

20           ~~[M.]~~ L. "public accountancy" means the performance  
21 of one or more kinds of services involving accounting or  
22 auditing skills, including the issuance of reports on financial  
23 statements, the performance of one or more kinds of management,  
24 financial advisory or consulting services, the preparation of  
25 tax returns or the furnishing of advice on tax matters;

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1           ~~[N.]~~ M. "registered public accountant" means a  
2 person who is registered by the board to practice public  
3 accountancy and use the designation;

4           ~~[O.]~~ N. "report" means an opinion or other writing  
5 that:

6                   (1) states or implies assurance as to the  
7 reliability of any financial statements;

8                   (2) includes or is accompanied by a statement  
9 or implication that the person issuing it has special knowledge  
10 or competency in accounting or auditing indicated by the use of  
11 names, titles or abbreviations likely to be understood to  
12 identify the author of the report as a licensee; and

13                   (3) includes the following types of reports as  
14 they are defined by board rule:

15                           (a) a compilation report;

16                           ~~[{a}]~~ (b) a review report; or

17                           ~~[{b}]~~ (c) an audit report;

18           ~~[P. "specialty designation" means a designation~~  
19 ~~indicating professional competence in a specialized area of~~  
20 ~~practice;]~~ and

21           ~~[Q.]~~ O. "substantial equivalency" means a  
22 determination by the board that the education, examination and  
23 experience requirements for certification of another  
24 jurisdiction are comparable to or exceed the ~~[corresponding]~~  
25 requirements of ~~[the 1999 Public Accountancy Act]~~ Paragraph (1)

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1 of Subsection A of Section 61-28B-26 NMSA 1978."

2 Section 2. Section 61-28B-8 NMSA 1978 (being Laws 1999,  
3 Chapter 179, Section 8, as amended) is amended to read:

4 "61-28B-8. QUALIFICATIONS FOR A CERTIFICATE AS A  
5 CERTIFIED PUBLIC ACCOUNTANT [JULY 1, 2004].--

6 A. An applicant for a certificate shall complete  
7 the application form provided by the board and demonstrate to  
8 the board's satisfaction that [he] the applicant:

9 (1) is of good moral character and lacks a  
10 history of dishonest or felonious acts; and

11 (2) meets the education, experience and  
12 examination requirements of the board.

13 B. The board may refuse to grant a certificate on  
14 the ground that the applicant failed to satisfy the requirement  
15 of good moral character.

16 ~~[C. The education requirements for a certificate,  
17 which must be met before an applicant is eligible to apply for  
18 examination, are as provided in this section or Section  
19 61-28B-7 NMSA 1978. After July 1, 2004, an applicant shall  
20 have at least one hundred fifty semester hours of college  
21 education, including a baccalaureate or higher degree or its  
22 equivalent conferred by a college or university acceptable to  
23 the board, the total educational program to include an  
24 accounting concentration or equivalent as determined by the  
25 board, with thirty semester hours in accounting or equivalent~~

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1 ~~as determined by the board.]~~

2 C. After July 1, 2008, the education requirement  
3 for examination shall be a baccalaureate degree or its  
4 equivalent conferred by a college or university acceptable to  
5 the board, with thirty semester hours in accounting or the  
6 equivalent as determined by the board. An applicant for a  
7 certificate shall have at least one hundred fifty semester  
8 hours of college education or its equivalent earned at a  
9 college or university acceptable to the board.

10 D. The examination for certification shall be  
11 offered via a computer-based testing system at least four times  
12 per year at a designated testing center and shall test an  
13 applicant's knowledge of the subjects of accounting and  
14 auditing and other related subjects as prescribed by the board.  
15 The board shall prescribe the method of applying for the  
16 examination and the dissemination of scores, and it shall rely  
17 on the American institute of certified public accountants for  
18 the grading of the examination. The board may use all or any  
19 part of the uniform certified public accountant examination  
20 services of the national association of state boards of  
21 accountancy to perform administrative services with respect to  
22 the examination. The board or its designee shall report all  
23 eligibility and score data to the national candidate database,  
24 and it shall, to the extent possible, provide that the passing  
25 scores are uniform with passing scores of other states.

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1           E. An applicant must pass all sections of the  
2 examination to qualify for a certificate. A passing scaled  
3 score for each section shall be seventy-five. Sections may be  
4 taken individually and in any order. An applicant may not take  
5 a failed test section within the same three-month examination  
6 window. Credit for any section passed shall be valid for  
7 eighteen months from the actual date the applicant took that  
8 section, without having to attain a minimum score on any failed  
9 test section and without regard to whether the applicant has  
10 taken other test sections. An applicant must pass all four  
11 test sections within a continuous eighteen-month period, which  
12 begins on the date that the first section passed is taken. If  
13 all four test sections are not passed within the continuous  
14 eighteen-month period, credit for any test section passed  
15 outside the eighteen-month period will expire, and that test  
16 section must be retaken.

17           F. An applicant who has passed at least two  
18 sections of the paper and pencil examination, as of the launch  
19 date of the computer-based examination, will retain credit for  
20 the corresponding test sections of the computer-based  
21 examination.

22           G. An applicant who has passed at least two  
23 sections of the paper and pencil examination, as of the launch  
24 date of the computer-based examination, shall be given a  
25 transition period to complete any remaining test sections of

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1 the computer-based examination.

2 H. An applicant shall be given credit for  
3 examination sections passed in another state if such credit  
4 would have been given in New Mexico.

5 I. The board may waive or defer requirements of  
6 this section regarding the circumstances in which sections of  
7 the examination must be passed, upon a showing that, by reason  
8 of circumstances beyond the applicant's control, ~~[he]~~ the  
9 applicant was unable to meet the requirement.

10 J. An applicant for initial issuance of a certified  
11 public accountant certificate shall show that ~~[he]~~ the  
12 applicant has had at least one year of experience. This  
13 experience shall include providing service or advice involving  
14 the use of accounting, attest, management advisory, financial  
15 advisory, tax or consulting skills as verified by a certified  
16 public accountant who meets requirements prescribed by the  
17 board. The experience is acceptable if it was gained through  
18 employment in government, industry, academia or public  
19 practice."

20 Section 3. Section 61-28B-11 NMSA 1978 (being Laws 1999,  
21 Chapter 179, Section 11) is amended to read:

22 "61-28B-11. CERTIFICATES ISSUED TO HOLDERS OF A  
23 CERTIFICATE, LICENSE OR PERMIT ISSUED BY ANOTHER STATE.--

24 A. ~~[If an applicant does not qualify for~~  
25 ~~reciprocity pursuant to the substantial equivalency standard]~~

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1 The board may issue a certificate to a holder of a certificate,  
2 license or permit issued by another state upon a showing that  
3 the applicant:

4 (1) passed the examination required for  
5 issuance of ~~[his]~~ the applicant's certificate with grades that  
6 would have been passing grades at the time in New Mexico;

7 (2) passed the examination upon which ~~[his]~~  
8 the applicant's out-of-state certificate was based and has two  
9 years of experience acceptable to the board or meets equivalent  
10 requirements prescribed by board rule, within the ten years  
11 immediately preceding the application; and

12 (3) if the applicant's certificate, license or  
13 permit was issued more than four years prior to application,  
14 ~~[he]~~ has fulfilled the board's requirements of continuing  
15 professional education.

16 B. A person licensed by another state who wishes to  
17 establish ~~[his]~~ a principal place of business in New Mexico  
18 shall apply to the board for a certificate prior to  
19 establishing the business. The board may issue a certificate  
20 to the person if ~~[he]~~ the person provides proof from a board-  
21 approved national qualification appraisal service that ~~[his]~~  
22 the person's certified public accountant qualifications are  
23 substantially equivalent to the certified public accountant  
24 certification requirements of ~~[the 1999 Public Accountancy Act]~~  
25 Paragraph (1) of Subsection A of Section 61-28B-26 NMSA 1978.

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1 C. The board may issue a certificate to a holder of  
2 a substantially equivalent foreign designation; provided that:

3 (1) the foreign authority that granted the  
4 designation makes similar provision to allow a person who holds  
5 a valid certificate issued by New Mexico to obtain such foreign  
6 authority's comparable designation;

7 (2) the foreign designation:

8 (a) was duly issued by a foreign  
9 authority that regulates the practice of public accountancy and  
10 the foreign designation has not expired or been revoked or  
11 suspended;

12 (b) entitles the holder to issue reports  
13 upon financial statements; and

14 (c) was issued upon the basis of  
15 educational, examination and experience requirements  
16 established by the foreign authority or by law; and

17 (3) the applicant:

18 (a) received the designation based on  
19 educational and examination standards substantially equivalent  
20 to those in effect in New Mexico at the time the foreign  
21 designation was granted;

22 (b) completed an experience requirement  
23 in the jurisdiction that granted the foreign designation that  
24 is substantially equivalent to the requirement provided for in  
25 the 1999 Public Accountancy Act or has completed four years of

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1 professional experience in New Mexico or meets equivalent  
2 requirements prescribed by the board within the ten years  
3 immediately preceding the application; and

4 (c) passed a uniform qualifying  
5 examination on national standards and an examination on the  
6 laws, rules and code of ethical conduct in effect in New Mexico  
7 that is acceptable to the board.

8 D. An applicant for initial issuance or renewal of  
9 a certificate pursuant to this section shall list all foreign  
10 and domestic jurisdictions in which the applicant has applied  
11 for or holds a designation to practice public accountancy. The  
12 applicant shall also list any past denial, revocation or  
13 suspension of a certificate, license or permit. An applicant  
14 or certificate holder shall notify the board in writing, within  
15 thirty days of the occurrence of any issuance, denial,  
16 revocation or suspension of a designation or commencement of a  
17 disciplinary or enforcement action by any jurisdiction.

18 E. The board has the sole authority to interpret  
19 the application of the provisions of this section."

20 Section 4. Section 61-28B-13 NMSA 1978 (being Laws 1999,  
21 Chapter 179, Section 13, as amended) is amended to read:

22 "61-28B-13. FIRM PERMITS TO PRACTICE, ATTEST EXPERIENCE,  
23 PEER REVIEW.--

24 A. The board may grant or renew a permit to  
25 practice as a certified public accountant firm to an applicant

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1 that demonstrates its ~~[qualification for the permit as provided~~  
2 ~~in Subsection E of this section. A firm must hold a permit~~  
3 ~~issued pursuant to the provisions of the 1999 Public~~  
4 ~~Accountancy Act in order to provide attest services or use the~~  
5 ~~title "certified public accountant", "CPA", "certified public~~  
6 ~~accountant firm", "CPA firm", "registered public accountant",~~  
7 ~~"RPA", "registered public accountant firm" or "RPA firm"]~~  
8 qualifications in accordance with this section.

9 B. A permit issued pursuant to this section shall  
10 be required for the following:

11 (1) a firm with an office in New Mexico  
12 performing attest services as defined by the 1999 Public  
13 Accountancy Act;

14 (2) a firm with an office in New Mexico that  
15 uses the title "CPA" or "CPA firm"; or

16 (3) a firm that does not have an office in New  
17 Mexico but performs attest services for a client whose  
18 principal place of business is in New Mexico.

19 C. A firm without an office in New Mexico may  
20 perform services described in Paragraph (2) of Subsection A of  
21 Section 61-28B-3 NMSA 1978 for a client whose principal place  
22 of business is in New Mexico and may use the title "CPA" or  
23 "CPA firm" without a permit issued pursuant to section only if:

24 (1) it performs services through a person with  
25 practice privileges under Section 61-28B-26 NMSA 1978;

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1                   (2) a simple majority of the ownership of the  
2 firm belongs to holders of a certificate who are licensed in  
3 some state pursuant to Paragraph (1) of Subsection H of this  
4 section; and

5                   (3) the firm has undergone a peer review  
6 pursuant to Subsection L of this section.

7                   D. A firm not subject to the requirements of  
8 Subsection B or C of this section may perform other  
9 professional services while using the title "CPA" or "CPA firm"  
10 in New Mexico without a permit issued pursuant to this section  
11 only if:

12                   (1) the firm performs services through a  
13 person with practice privileges pursuant to Section 61-28B-26  
14 NMSA 1978; and

15                   (2) the firm can lawfully perform services in  
16 the state that is the firm's principal place of business.

17                   ~~[B.]~~ E. Permits shall be issued and renewed for  
18 periods of not more than two years, expiring on June 30 of the  
19 year of expiration. Failure to pay the renewal fee shall be  
20 cause for the board to withhold renewal of a permit without  
21 prior hearing pursuant to the provisions of the Uniform  
22 Licensing Act. If the renewal fee and delinquency fee are not  
23 paid within ninety days after the expiration of the permit, the  
24 permit shall be subject to cancellation. A firm whose permit  
25 has been canceled for failure to pay the annual renewal fee may

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1 secure reinstatement of the permit upon application and payment  
2 of the renewal fee and upon approval by the board.

3 ~~[G.]~~ F. The board shall grant or deny an  
4 application for a permit no later than ninety days after the  
5 complete application is filed.

6 ~~[D.]~~ G. If an applicant appeals the decision of the  
7 board to deny a permit, the board may issue a provisional  
8 permit for no longer than ninety days while the board  
9 reconsiders its decision.

10 ~~[E.]~~ H. An applicant for initial issuance or  
11 renewal of a permit shall demonstrate that:

12 (1) a simple majority of the ownership of the  
13 firm, in terms of financial interests, profits, losses,  
14 dividends, distributions, options, redemptions and voting  
15 rights of all partners, officers, shareholders, members or  
16 managers, belongs to holders of a certificate who are licensed  
17 in some state. ~~[Such partners, officers, shareholders, members  
18 or managers]~~ A partner, officer, shareholder, member or  
19 manager, whose principal place of business is in New Mexico,  
20 and who ~~[perform]~~ performs professional services in New Mexico,  
21 must hold a valid certificate. The firm and all owners must  
22 comply with the 1999 Public Accountancy Act. A person with  
23 practice privileges pursuant to Section 61-28B-26 NMSA 1978 who  
24 performs services for which a permit is required pursuant to  
25 this section shall not be required to obtain a certificate from

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1 New Mexico pursuant to Section 61-28B-9 NMSA 1978. A firm may  
2 include owners who are not certificate holders; provided that:

3 (a) the firm designates a New Mexico  
4 certificate holder, or in the case of a firm that must have a  
5 permit, a licensee of another state who meets the requirements  
6 of Subsection A of Section 61-28B-26 NMSA 1978, who is  
7 responsible for the proper registration of the firm and  
8 identifies that [~~individual~~] person to the board;

9 (b) all owners who are not certificate  
10 holders are active [~~individual~~] participants in the certified  
11 public accountant firm or registered public accountant firm or  
12 affiliated entities; and

13 (c) the firm complies with the 1999  
14 Public Accountancy Act; and

15 (2) [~~an individual~~] a certificate holder, or a  
16 person qualifying for practice privileges pursuant to Section  
17 61-28B-26 NMSA 1978, who is responsible for supervising attest  
18 services or signs or authorizes someone to sign the  
19 accountant's report on the financial statements on behalf of  
20 the firm meets the experience requirements set out in the  
21 professional standards for such services.

22 [F.] I. An applicant for initial issuance or  
23 renewal of a permit shall be required to register each office  
24 of the firm within New Mexico with the board and to show that  
25 all attest services rendered in this state are under the charge

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1 of a person holding a valid certificate issued pursuant to the  
2 1999 Public Accountancy Act or the corresponding provision of  
3 prior law or by some other state.

4 ~~[G.]~~ J. An applicant for initial issuance or  
5 renewal of a permit shall list all foreign and domestic  
6 jurisdictions in which it has applied for or holds permits as a  
7 certified public accountant firm and list any past denial,  
8 revocation or suspension of a permit by any jurisdiction. Each  
9 permit holder or applicant shall notify the board in writing,  
10 within thirty days of the occurrence of a change in the  
11 identities of partners, officers, shareholders, members or  
12 managers whose principal place of business is in this state, a  
13 change in the number or location of offices within this state,  
14 a change in the identity of the persons in charge of such  
15 offices and any issuance, denial, revocation or suspension of a  
16 permit by another jurisdiction.

17 ~~[H.]~~ K. A firm that falls out of compliance with  
18 the provisions of the 1999 Public Accountancy Act due to  
19 changes in firm ownership or personnel shall take corrective  
20 action to bring the firm back into compliance as quickly as  
21 possible. The board may grant a six-month period for a firm to  
22 take the corrective action. Failure to bring the firm back  
23 into compliance within six months shall result in the  
24 suspension or revocation of the firm permit.

25 ~~[I.]~~ L. As a condition to permit renewal, the board

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1 shall require the applicant to undergo a peer review conducted  
2 in accordance with board rules. The review shall include a  
3 verification that a person in the firm, or a person qualifying  
4 for practice privileges pursuant to Section 61-28B-26 NMSA  
5 1978, who is responsible for supervising attest services and  
6 signs or authorizes someone to sign the accountant's report on  
7 the financial statements on behalf of the firm meets the  
8 experience requirements set out in the professional standards  
9 for the services as required by the board.

10 [J-] M. If a partner, shareholder or member is a  
11 legal business entity, that legal business entity must be a  
12 firm.

13 [K-] N. Attest services may only be provided by a  
14 certificate holder or a member of a firm that satisfies the  
15 requirements of this section. Attest services may not be  
16 performed by a certificate holder who is a member of a firm  
17 that does not meet the certificate holder's ownership  
18 requirements set forth in this section."

19 Section 5. Section 61-28B-17 NMSA 1978 (being Laws 1999,  
20 Chapter 179, Section 17, as amended) is amended to read:

21 "61-28B-17. ENFORCEMENT--UNLAWFUL ACTS.--

22 A. Except as otherwise provided in [~~Subsection C of~~  
23 ~~this section and Section 61-28B-18 NMSA 1978]~~ the 1999 Public  
24 Accountancy Act, it is unlawful for a person to engage in  
25 practice in New Mexico unless [~~he~~] the person is a licensee.

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1           B. Except as otherwise provided in [~~Subsection C of~~  
2 ~~this section and Section 61-28B-18 NMSA 1978~~] the 1999 Public  
3 Accountancy Act, no person [~~or accountant~~] shall issue a report  
4 or financial statement [~~of~~] for a person or a governmental unit  
5 or issue a report using any form of language conventionally  
6 used respecting an audit or review of financial statements,  
7 unless [~~he~~] the person holds a current license or permit. The  
8 state auditor and [~~his~~] the state auditor's auditing staff are  
9 considered to be in the practice of public accountancy.

10           C. With the exception of persons cited in Section  
11 61-28B-18 NMSA 1978, a person [~~or accountant~~] who prepares a  
12 financial accounting and related statements and who is not the  
13 holder of a certificate or a permit under the provisions of  
14 that act shall use the following statement in the transmittal  
15 letter: "I (we) have prepared the accompanying financial  
16 statements of (name of entity) as of (time period) and for the  
17 (time period) ending (date). This presentation is limited to  
18 preparing in the form of financial statements information that  
19 is the representation of management (owners). I (we) have not  
20 audited [~~nor~~] or reviewed the accompanying financial statements  
21 and accordingly do not express an opinion or any other form of  
22 assurance on them."

23           D. No person [~~or accountant~~] shall indicate by  
24 title, designation, abbreviation, sign, card or device that  
25 [~~he~~] the person is a certified public accountant or a

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1 registered public accountant unless [~~he~~] the person is  
2 currently certified by the board pursuant to the 1999 Public  
3 Accountancy Act or is a firm currently permitted by the board  
4 pursuant to that act. Unless [~~he~~] the person is a holder of a  
5 current certificate or permit, no person [~~or accountant~~] shall  
6 use any title, initials or designation intended to or  
7 substantially likely to indicate to the public that [~~he~~] the  
8 person is a certified public accountant or registered public  
9 accountant.

10 E. No person shall engage in practice unless:

11 (1) [~~he~~] the person holds a valid certificate  
12 or current permit; or

13 (2) [~~he~~] the person is an employee supervised  
14 by a licensee pursuant to Section 61-28B-18 NMSA 1978 and not a  
15 partner, officer, shareholder or member of a firm.

16 F. No person or firm holding a certificate or  
17 permit shall engage in practice using a professional or firm  
18 name or designation that is misleading about the legal form of  
19 the firm; provided, however, that names of one or more former  
20 partners, shareholders or members may be included in the name  
21 of a firm or its successors.

22 G. No person shall sell, offer to sell or  
23 fraudulently obtain or furnish any certificate or permit nor  
24 shall [~~he~~] the person fraudulently register as a certified  
25 public accountant or registered public accountant or practice

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1 in this state without being granted a certificate or permit as  
2 provided in the 1999 Public Accountancy Act.

3 H. A licensee or [~~his~~] the licensee's firm shall  
4 not receive a commission to recommend or refer a product or  
5 service to a client or to recommend to anyone else a product or  
6 service to be supplied by a client during the period the  
7 licensee or [~~his~~] the licensee's firm is engaged to perform the  
8 following services for that client and during the period  
9 covered by any historical financial statements involved in the  
10 services:

11 (1) an audit or review of a financial  
12 statement;

13 (2) a compilation of a financial statement  
14 when the licensee expects or might reasonably expect that a  
15 third party will use the financial statement, and the  
16 compilation report does not disclose the lack of independence  
17 by the licensee; or

18 (3) an examination of prospective financial  
19 information.

20 I. A licensee or [~~his~~] the licensee's firm that is  
21 not prohibited from receiving a commission by Subsection H of  
22 this section and that is paid or expects to be paid a  
23 commission shall disclose that fact in writing to the person  
24 for whom the licensee or [~~his~~] the licensee's firm performs a  
25 service or refers or recommends a product or service. A

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1 licensee or firm that accepts or pays a referral fee for a  
2 service or to obtain a client shall disclose such acceptance or  
3 payment to the client in writing.

4 J. A licensee or [~~his~~] the licensee's firm shall  
5 not charge or receive a contingent fee for a client for whom  
6 the licensee or [~~his~~] the licensee's firm performs the  
7 following services:

8 (1) an audit or review of a financial  
9 statement;

10 (2) a compilation of a financial statement  
11 when the licensee expects or reasonably might expect that a  
12 third party will use the financial statement and the  
13 compilation report does not disclose a lack of independence;

14 (3) an examination of prospective financial  
15 information; or

16 (4) preparation of an original or amended tax  
17 return or claim for tax refund, except in the case of federal,  
18 state or other taxes in which the findings are those of the tax  
19 authorities and not those of the licensee or in the case of  
20 professional services for which fees are to be fixed by courts  
21 or other public authorities and that are therefore  
22 indeterminate in amount at the time the professional services  
23 are undertaken.

24 K. No licensee shall sign or certify any financial  
25 statements if [~~he~~] the licensee knows the same to be materially

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1 false or fraudulent.

2 L. For the purposes of this section, a person with  
3 practice privileges pursuant to Section 61-28B-26 NMSA 1978  
4 shall be substantially equivalent to a certificate holder  
5 pursuant to Section 61-28B-9 NMSA 1978. Terms or references  
6 that refer to a certificate holder pursuant to Section 61-28B-9  
7 NMSA 1978 shall include a person with practice privileges  
8 pursuant to Section 61-28B-26 NMSA 1978.

9 M. For the purposes of this section, a firm  
10 practicing under Subsection C or D of Section 61-28B-13 NMSA  
11 1978 may perform the services specified by the applicable  
12 provisions of the 1999 Public Accountancy Act and may use the  
13 terms "CPA" or "CPA firm" without obtaining a permit. Terms or  
14 references that refer to a firm holding a permit pursuant to  
15 Subsection B of Section 61-28B-13 NMSA 1978 shall include a  
16 firm practicing pursuant to Subsection C or D of Section  
17 61-28B-13 NMSA 1978."

18 Section 6. Section 61-28B-26 NMSA 1978 (being Laws 1999,  
19 Chapter 179, Section 26) is amended to read:

20 "61-28B-26. PRACTICE PRIVILEGE AND DISCIPLINE FOR A  
21 CERTIFICATE HOLDER FROM A STATE WHOSE ACCOUNTANCY STATUTE IS  
22 SUBSTANTIALLY EQUIVALENT.--

23 ~~[A. A person whose principal place of business is~~  
24 ~~not in New Mexico and who has a valid certificate or license as~~  
25 ~~a certified public accountant from a state that the board-~~

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1 ~~approved qualification appraisal service has verified to be in~~  
2 ~~substantial equivalence with the certified public accountant~~  
3 ~~requirements of the New Mexico 1999 Public Accountancy Act~~  
4 ~~shall be presumed to have qualifications substantially~~  
5 ~~equivalent to New Mexico's requirements. A person may also~~  
6 ~~obtain from the board-approved qualification appraisal service~~  
7 ~~verification that his certified public accountant~~  
8 ~~qualifications are substantially equivalent to New Mexico's~~  
9 ~~certified public accountant licensure requirements. The person~~  
10 ~~shall have all the privileges of certificate holders of New~~  
11 ~~Mexico without the need to obtain a New Mexico certificate or~~  
12 ~~permit; provided, however, the person shall notify the board of~~  
13 ~~his intent to enter the state under this provision.~~

14 ~~B. A certificate or permit holder of another state~~  
15 ~~exercising the privilege afforded by the provisions of this~~  
16 ~~section consents, as a condition of the grant of this~~  
17 ~~privilege:~~

18 ~~(1) to the personal and subject matter~~  
19 ~~jurisdiction of the board;~~

20 ~~(2) to comply with the provisions of the 1999~~  
21 ~~Public Accountancy Act; and~~

22 ~~(3) to the appointment of the state board that~~  
23 ~~issued its certificate or license as its agent, upon whom~~  
24 ~~process may be served in an action or proceeding by the New~~  
25 ~~Mexico public accountancy board against it.~~

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1                   ~~G. A certificate or permit holder of New Mexico~~  
2 ~~that offers or renders a service or uses its certified public~~  
3 ~~accountant title in another state shall be subject to~~  
4 ~~disciplinary action in New Mexico for an act committed in~~  
5 ~~another state for which it would be subject to discipline for~~  
6 ~~an act committed in the other state. The board shall~~  
7 ~~investigate any complaint made by the board of accountancy of~~  
8 ~~another state.]~~

9                   A. A person whose principal place of business is  
10 not in New Mexico shall be presumed to have qualifications  
11 substantially similar to New Mexico's requirements and may  
12 exercise all the practice privileges of certificate holders of  
13 New Mexico without the need to obtain a certificate pursuant to  
14 Section 61-28B-9 NMSA 1978 if the person:

15                                 (1) holds a valid license as a certified  
16 public accountant from any state that requires, as a condition  
17 of licensure, that a person:

18   (a) have at least one hundred fifty  
19 semester hours of college education, including a baccalaureate  
20 or higher degree conferred by a college or university;

21   (b) achieve a passing grade on the  
22 uniform certified public accountant examination; and

23   (c) possess at least one year of  
24 experience, including providing any type of service or advice  
25 involving the use of accounting, attest, compilation,

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1 management advisory, financial advisory, tax or consulting  
2 skills, which may be obtained through government, industry,  
3 academic or public practice, all of which can be verified by a  
4 licensee; or

5 (2) holds a valid license as a certified  
6 public accountant from any state that does not meet the  
7 requirements of Paragraph (1) of Subsection A of this section,  
8 but the person's certified public accountant qualifications are  
9 substantially equivalent to those requirements. A person who  
10 passed the uniform certified public accountant examination and  
11 holds a valid license issued by any other state prior to  
12 January 1, 2012 may be exempt from the education requirement in  
13 Subparagraph (a) of Paragraph (1) of this subsection.

14 B. Notwithstanding any other provision of law, a  
15 person who qualifies for the practice privilege pursuant to  
16 this section may offer or render professional services whether  
17 in person or by mail, telephone or electronic means, and no  
18 notice, fee or other submission shall be required of the  
19 person.

20 C. A person licensed in another state exercising  
21 the practice privilege afforded pursuant to this section and  
22 the firm that employs the licensee simultaneously shall  
23 consent, as a condition of exercising the practice privilege:

24 (1) to submit to the personal and subject-  
25 matter jurisdiction and disciplinary authority of the board;

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1                   (2) to comply with the 1999 Public Accountancy  
2 Act and the rules adopted by the board;

3                   (3) to cease offering or rendering  
4 professional attest services in New Mexico in the event the  
5 license from the state of the person's principal place of  
6 business is no longer valid; and

7                   (4) to the appointment of the state board that  
8 issued the license as agent upon whom process may be served in  
9 any action or proceeding by the New Mexico public accountancy  
10 board against the licensee.

11                   D. A certificate or permit holder of New Mexico  
12 that offers or renders an attest service or uses its certified  
13 public accountant title in another state shall be subject to  
14 disciplinary action in New Mexico for an act committed in  
15 another state for which it would be subject to discipline in  
16 the other state. Notwithstanding the provisions of Sections  
17 61-28B-15 and 61-28B-16 NMSA 1978, the board shall investigate  
18 any complaint made by the board of accountancy in another  
19 state."

20                   Section 7. REPEAL.--Section 61-28B-10 NMSA 1978 (being  
21 Laws 1999, Chapter 179, Section 10) is repealed.